

AMENDED IN ASSEMBLY APRIL 8, 2008
AMENDED IN ASSEMBLY MARCH 13, 2008
CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2344

Introduced by Assembly Member Beall

February 21, 2008

An act to amend ~~Sections 22973 and 22977.1~~ *Section 22973* of the Business and Professions Code, relating to cigarettes and tobacco products.

LEGISLATIVE COUNSEL'S DIGEST

AB 2344, as amended, Beall. California Cigarette and Tobacco Products Licensing Act of 2003: fees.

Existing law, the California Cigarette and Tobacco Products Licensing Act of 2003, provides for, and requires the licensure by, the State Board of Equalization of manufacturers, distributors, wholesalers, importers, and retailers of cigarette or tobacco products that are engaged in business in California. Existing law requires an application for licensure as a retailer of cigarettes or tobacco products to include a one-time license fee of \$100 per retail location, but does not apply this fee to an application for renewal of a license. ~~The act also requires distributors and wholesalers to pay the board an annual license fee of \$1,000 per location. Under existing law, if a license is reinstated after its expiration, the retailer is required to pay a reinstatement fee of \$100.~~

The act requires all moneys collected pursuant to its provisions to be deposited in the Cigarette and Tobacco Products Compliance Fund in the State Treasury, which is ~~solely~~ *solely* available for appropriation by the Legislature for the purpose of implementing, enforcing, and

administering the California Cigarette and Tobacco Products Licensing Act of 2003.

This bill would require a retailer of cigarettes or tobacco products to pay an annual license fee of ~~\$100 and would increase the distributor and wholesaler license fee to \$1,500~~ \$185, and would also increase the fee for reinstatement to \$185. This bill also makes findings and declarations with regard to the increased costs of administering the California Cigarette and Tobacco Products Licensing Act of 2003.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. (a) The Cigarette and Tobacco Products~~
- 2 ~~SECTION 1. The Legislature finds and declares all of the~~
- 3 ~~following:~~
- 4 ~~(a) The Cigarette and Tobacco Products Licensing Act of 2003~~
- 5 ~~has contributed to a reduction in cigarette and tobacco products~~
- 6 ~~tax evasion.~~
- 7 ~~(b) Approximately 38,000 retailers maintain an annual license~~
- 8 ~~to engage in the sale of cigarettes or tobacco products in this state.~~
- 9 ~~(c) The one-time fee for a retailer's license is one hundred~~
- 10 ~~dollars (\$100). Retailers are required to renew their licenses on a~~
- 11 ~~yearly basis.~~
- 12 ~~(d) The one-time fee for a distributor's or wholesaler's license~~
- 13 ~~is one thousand dollars (\$1,000). Distributors and wholesalers are~~
- 14 ~~required to renew their licenses on a yearly basis and submit a one~~
- 15 ~~thousand dollar (\$1,000) renewal fee to the State Board of~~
- 16 ~~Equalization.~~
- 17 ~~(e) Retailers, distributors, and wholesalers that sell or distribute~~
- 18 ~~(d) Retail that sell~~ cigarettes or tobacco products without being
- 19 properly licensed are subject to citation, specified fines, and
- 20 possible seizure of those products.
- 21 ~~(f)–~~
- 22 ~~(e) The State Board of Equalization currently engages in~~
- 23 ~~procedures so that every effort is made to ensure that retailers;~~
- 24 ~~distributors, and wholesalers renew, or reinstate, their license to~~
- 25 ~~continue to engage in the sale or distribution of cigarettes or~~
- 26 ~~tobacco products in this state.~~
- 27 ~~(g)–~~

(f) When a retailer allows *its* license to expire, the State Board of Equalization must suspend or revoke the license, notify the retailer of the suspension or revocation of the license, and deploy an investigator to the retail location to determine whether the retail location is still engaged in the sale of cigarettes and tobacco products. If the retailer is still engaged in the sale of cigarettes and tobacco products, the retailer is required to reinstate the license.

~~(h) State Board of Equalization staff may inspect distributors' and wholesalers' locations and seize any undocumented cigarettes or tobacco products, including cigarettes without tax stamps or with counterfeit tax stamps. State Board of Equalization staff may also review distributors' and wholesalers' sales and purchase records to confirm compliance with the Cigarette and Tobacco Products Licensing Act of 2003.~~

~~(i)~~
(g) The addition of a renewal fee for retailers ~~and of a change in the amount of the application and renewal fees for distributors and wholesalers~~ constitutes a fee for administrative purposes for the State Board of Equalization to offset the actual cost of staff resources necessary to process new applicants and to administer the retailers', ~~distributors', and wholesalers'~~ licenses, which includes renewal, investigation, suspension, and, if necessary, reinstatement of the licenses.

SEC. 2. Section 22973 of the Business and Professions Code is amended to read:

22973. (a) An application for a license shall be on a form prescribed by the board and shall include the following:

(1) The name, address, and telephone number of the applicant.

(2) The business name, address, and telephone number of each retail location. For applicants who control more than one retail location, an address for receipt of correspondence or notices from the board, such as a headquarters or corporate office of the retailer, shall also be included on the application and listed on the license. Citations issued to licensees shall be forwarded to all addressees on the license.

(3) A statement by the applicant affirming that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this division or any rule of the board applicable to the applicant or pertaining to the manufacture, sale, or distribution of cigarettes

1 or tobacco products. If the applicant is unable to affirm this
2 statement, the application shall contain a statement by the applicant
3 of the nature of any violation or the reasons that will prevent the
4 applicant from complying with the requirements with respect to
5 the statement.

6 (4) If any other licenses or permits have been issued by the
7 board or the Department of Alcoholic Beverage Control to the
8 applicant, the license or permit number of those licenses or permits
9 then in effect.

10 (5) A statement by the applicant that the contents of the
11 application are complete, true, and correct. Any person who signs
12 a statement pursuant to this subdivision that asserts the truth of
13 any material matter that he or she knows to be false is guilty of a
14 misdemeanor punishable by imprisonment of up to one year in the
15 county jail, or a fine of not more than one thousand dollars
16 (\$1,000), or both the imprisonment and the fine.

17 (6) The signature of the applicant.

18 (7) Any other information the board may require.

19 (b) The board may investigate to determine the truthfulness and
20 completeness of the information provided in the application. The
21 board may issue a license without further investigation to an
22 applicant for a retail location if the applicant holds a valid license
23 from the Department of Alcoholic Beverage Control for that same
24 location.

25 (c) The board shall provide electronic means for applicants to
26 download and submit applications.

27 (d) (1) A license fee of one hundred ~~dollars (\$100)~~ *eighty-five*
28 *dollars (\$185)* shall be submitted with each application. This
29 license fee shall be submitted annually thereafter per each retail
30 location. An applicant that owns or controls more than one retail
31 location shall obtain a separate license for each retail location, but
32 may submit a single application for those licenses with a license
33 fee of one hundred ~~dollars (\$100)~~ *eighty-five dollars (\$185)* per
34 location.

35 (2) If a license is reinstated after its expiration, the retailer, as
36 a condition precedent to its reinstatement, shall ~~also~~ pay a
37 reinstatement fee of one hundred ~~dollars (\$100)~~ *eighty-five dollars*
38 *(\$185)*.

39 ~~SEC. 3. Section 22977.1 of the Business and Professions Code~~
40 ~~is amended to read:~~

1 ~~22977.1. (a) Every distributor and every wholesaler shall file~~
2 ~~an application, as prescribed in Section 22977, on or before April~~
3 ~~15, 2004. Each application shall be accompanied by a fee of one~~
4 ~~thousand five hundred dollars (\$1,500) for each location. The fee~~
5 ~~shall be for a calendar year and may not be prorated. Subject to~~
6 ~~meeting the requirements of this section and Section 22977.2, the~~
7 ~~board shall issue a license.~~

8 ~~(b) Every distributor and every wholesaler who commences~~
9 ~~business after the last day of May 2004, or who commences selling~~
10 ~~or distributing cigarettes or tobacco products at a new or different~~
11 ~~place of business in this state after the last day of May 2004, shall~~
12 ~~file with the board an application as prescribed in Section 22977~~
13 ~~at least 30 days prior to commencing such business or commencing~~
14 ~~such sales or distributions; and all distributors and all wholesalers~~
15 ~~that fail to timely file an application for a license under subdivision~~
16 ~~(a) shall file with the board an application as prescribed in Section~~
17 ~~22977. Each application shall be accompanied by a fee of one~~
18 ~~thousand five hundred dollars (\$1,500) for each location. The fee~~
19 ~~shall be for a calendar year and shall not be prorated. Subject to~~
20 ~~Section 22977.2, the board, within 30 days after receipt of an~~
21 ~~application and payment of the proper fee shall issue a license.~~

22 ~~(c) For calendar years beginning on and after January 1, 2009,~~
23 ~~every distributor and every wholesaler shall file an application for~~
24 ~~renewal of the license prescribed in Section 22977, accompanied~~
25 ~~with a fee of one thousand five hundred dollars (\$1,500) for each~~
26 ~~location where cigarettes and tobacco products are sold, in the~~
27 ~~form and manner as prescribed by the board.~~

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30 CORRECTIONS:
31 Text—Pages 2 and 3.
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